



TTAB TM\$

TRADE MARK TrueAir (stylized)  
OPPOSER'S MATTER NO. 1713759

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re application of: )  
)  
HAMILTON BEACH / PROCTOR SILEX )  
)  
U.S. Serial No. 76/085,778 )  
)  
Filing Date: July 10, 2000 )  
)  
For: TrueAir (Stylized), class 11 )  
\_\_\_\_\_ )

Published for Opposition  
on July 30, 2002

02 SEP 23 AM 11:15  
TRADEMARK TRIAL AND APPEAL BOARD

08-29-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #35

NOTICE OF OPPOSITION TO REGISTRATION

BOX TTAB FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington VA 22202-3513

09/04/2002 JHARLEY 00000065 7608578

01 FC:377

300.00 OP

Greetings:

BLUEAIR, Inc., a corporation of Delaware, with a principal place of business at 435 N. LaSalle St., Suite 410, Chicago, IL 60610, USA, believes that it would be damaged by the registration of the captioned mark of this application on the Principal Register of the US Trademark Office. Opposer pays herewith the \$300 fee for initiating this Opposition, in the one class of the application, and files this paper within 30 days after publication of the mark on July 30, 2002.

Opposer Blueair, Inc., is a subsidiary of and the exclusive licensee for the US and Canada of the owner, Blueair AB, of the registered trademark **BLUEAIR AND DESIGN**, registration no. 2,467,700, in class 11 (Ex. A), and of published application for registration serial no. 76/358,444 for the word mark **BLUEAIR**, also in class 11 (Ex. B). The goods are stated as

“aircare products, namely, household air cleaners, air purifying units for domestic and commercial use, air conditioners, humidifiers, and dehumidifiers”. Opposer has been importing and selling such air care products under these trademarks in commerce and in interstate commerce of the United States since at least as early as January, 1996, and it is using these marks in commerce and in interstate commerce of the United States at this time. Exhibits C and D are specimens of use of the marks on Opposer’s goods as registered or applied for, as follows:

- C: a reduced-size copy of one printed edge of a filter cartridge, showing both the **Blue-air and design** and the **BLUEAIR** word trademarks as used on the goods; and
- D: a copy of another printed edge of the filter cartridge, showing the **BLUEAIR** word mark as used on the goods.

Exhibit E is a page print from Opposer’s dot-com web site, showing both **Blueair** trademarks as used and promoted for the goods of the registration and application throughout the United States.

Applicant’s mark **TrueAir** (stylized) is used for exactly the same goods as are the marks of Opposer: “atmosphere treatment machines in the nature of air purifying units for industrial, commercial, and domestic use, and replacement parts therefor” (Ex. F). Applicant has operated a web site trueair.com (Ex. G) only since early 2001 (Ex. H), at which information about its air conditioners, humidifiers, air cleaners, and odor eliminators are described and promoted under the mark of the application (Ex. G).

Applicant’s mark **TrueAir** is confusingly similar to Opposer’s previously registered and published marks **Blueair and design** and **BLUEAIR**; the marks are used on exactly the same goods and they move in exactly the same channels of commerce for sale to exactly the same consumers. Opposer was the first to use its marks in the United States, in early 1996, and was the first to apply for and to register its design mark with the prominent word portion, in May 2000 and issued in July 2001 - versus the Intent-To-Use case filed only in July 2000 by Applicant.

The first words or portions of the marks, TRUE and BLUE, have the same number of letters, they rhyme, and their end letters are the same; this first portion is set apart by the capital A in Applicant’s stylized mark and is separately pronounced in both Opposer’s and Applicant’s marks.

TRUE BLUE is a standard onomatopoeic device familiar to all Americans (*see* Ex. I, a TM Office web site print of 54 "live" records for marks with both TRUE and BLUE, most with TRUE BLUE together). *See also* Ex. J, TM Office web site prints of three registered marks using TRUE BLUE for goods in class 11 and/or for air processing goods. Thus, the dominant words of the two marks are easily confused for one another, whether marks using them are examined closely or not.

The suffix AIR portions of the word marks are identical to one another and contribute to the similarity of the marks as used on the goods of Applicant and of Opposer. AIR is disclaimed by Applicant, but its presence in the mark adds to the confusing similarity of the two marks on the similar goods.

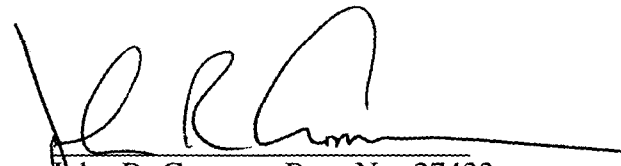
Applicant and Opposer are direct competitors in the home and commercial air treatment markets. Consumers are very likely to be unable to distinguish between the two marks but will be very likely to be confused as between the marks of the different companies; they likely will buy Applicant's goods when they are seeking to buy Opposer's **BLUEAIR** goods, especially if a full line of **TrueAir** products is released as contemplated by Applicant's web site (*see* Ex. G, left panel) and the application for registration. Opposer will plainly be damaged by this confusion, and by any registration of the mark to Applicant as sought in the published application. Registration should be refused to Applicant; an Opposition case should be established for consideration and proof of the facts and law of same.

All correspondence of the Office and Applicant should be directed to undersigned counsel for BlueAir, Inc. This is being filed in an original and a duplicate, each with the attachments.

**BlueAir, Inc.**

August 28, 2002

By:

  
John R. Crossan, Reg. No. 27433  
Counsel for Opposer

CHAPMAN AND CUTLER  
111 W. Monroe St., #1700  
Chicago, IL 60603  
312/845-3420  
fax: 312/803-5299  
crossan@chapman.com

### **Attached Exhibits Supporting this Opposition**

	<u>No.</u>
BLUEAIR AND DESIGN Trademark Registration 2,467,700 .....	A
BLUEAIR Published Trademark Application .....	B
BLUEAIR and BLUEAIR AND DESIGN tms as used in commerce .....	C
BLUEAIR tm as used in commerce .....	D
BLUEAIR.COM web site, advertising and promoting Opposer's goods .....	E
TrueAir (stylized) trademark, as published for opposition .....	F
TrueAir (stylized) tm as used on Applicant's web site pages .....	G
WhoIs web site report on creation and ownership of trueair.com domain .....	H
Trademark Office web site report on "true" and "blue" words in all live marks ....	I
Trademark Office web site prints of registered marks with TRUE BLUE words, for goods in Class 11 and/or for air handling products .....	J



# UNITED STATES PATENT AND TRADEMARK OFFICE

## Trademark Electronic Search System (TESS)

TESS was last updated on Tue Aug 27 04:33:15 EDT 2002

PTO HOME	TRADEMARK	TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	BOTTOM	HELP	NEXT LIST	CURR LIST	NEXT LIST	FIRST DOC
PREV DOC	NEXT DOC	LAST DOC										

Please logout when you are done to release system resources allocated for you.

List At:  OR to record:  Record 6 out of 9

### Check Status

(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)

# Blueair

<b>Word Mark</b>	BLUEAIR
<b>Goods and Services</b>	IC 011, US 013 021 023 031 034, G & S: Aircare products, namely, household air cleaners, air purifying units for domestic and commercial use, air conditioners, humidifiers, and dehumidifiers. FIRST USE: 19960100. FIRST USE IN COMMERCE: 19980210
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	260121
<b>Serial Number</b>	76052193
<b>Filing Date</b>	May 19, 2000
<b>Published for Opposition</b>	April 17, 2001
<b>Registration Number</b>	2467700
<b>Registration Date</b>	July 10, 2001
<b>Owner</b>	(REGISTRANT) Blueair AB CORPORATION SWEDEN Danderydsatan 11 114 26 Stockholm SWEDEN
<b>Attorney of Record</b>	Thomas H. Thorelli
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

PTO HOME	TRADEMARK	TESS HOME	NEW USER	STRUCTURED	FREE FORM	Browse Dict	TOP	HELP	NEXT LIST	CURR LIST	NEXT LIST	FIRST DOC
PREV DOC	NEXT DOC	LAST DOC										

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### Check Status

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### Typed Drawing

**Word Mark** BLUEAIR  
**Goods and Services** IC 011, US 013 021 023 031 034, G & S: Air care products, namely, household air cleaners, air purifying units for domestic and commercial use, air conditioners, humidifiers, and dehumidifiers. FIRST USE: 19960100. FIRST USE IN COMMERCE: 19980210  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 76358444  
**Filing Date** January 14, 2002  
**Published for Opposition** August 6, 2002  
**Owner** (APPLICANT) Blueair AB CORPORATION SWEDEN Danderydsgatan 11 114 26 Stockholm SWEDEN  
**Attorney of Record** John R. Crossan  
**Prior Registrations** 2467700  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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B

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 08/27/2002 16:55:07 ET

Serial Number: 76358444

Registration Number: (NOT AVAILABLE)

Mark (words only): BLUEAIR

Current Status: Application has been published for opposition.

Date of Status: 2002-08-06

Filing Date: 2002-01-14

The Information will be/was published in the Official Gazette on 2002-08-06

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMEG Law Office 104

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#### CURRENT APPLICANT(S)/OWNER(S)

---

1. Blueair AB

**Address:**

Blueair AB  
Danderydsgatan 11  
114 26 Stockholm,  
Sweden

**State or Country of Incorporation:** Sweden

**Legal Entity Type:** Corporation

---

#### GOODS AND/OR SERVICES

---

Air care products, namely, household air cleaners, air purifying units for domestic and commercial use, air conditioners, humidifiers, and dehumidifiers

**International Class:** 011

**First Use Date:** 19960100

**First Use in Commerce Date:** 19980210

**Basis:** 1(a)

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#### ADDITIONAL INFORMATION

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**Prior Registration Number(s):**

2467700

---

#### PROSECUTION HISTORY

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2002-08-06 - Published for opposition

2002-07-17 - Notice of publication

2002-05-31 - Approved for Pub - Principal Register (Initial exam)

2002-04-15 - Communication received from applicant

2002-04-15 - PAPER RECEIVED

2002-04-04 - Non-final action mailed

2002-04-01 - Case file assigned to examining attorney

---

#### CONTACT INFORMATION

---

**Correspondent (Owner)**

John R. Crossan (Attorney of record)

JOHN R. CROSSAN  
CHAPMAN AND CUTLER  
111 WEST MONROE STREET  
CHICAGO, ILLINOIS 60603-4080  
United States

**Domestic Representative**

CHAPMAN AND CUTLER

▲ (BACK/TOP) ▲

THIS SIDE MUST  
FACE BACK

# Blueair 402

● **Blueair**

C



# PARTICLE FILTER

Blueair 402



A

**Blueair**

HOME PRODUCTS

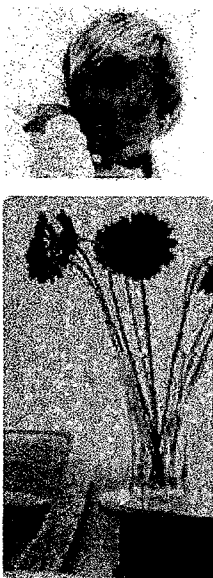
FILTER SUBSCRIPTION PROGRAM

SALES &amp; SERVICE

CLEAN AIR RESOURCES

OUR COMPANY


ABOUT



## Blueair air purification systems

### clean air is a human right

People who care about their family's right to breathe clean, healthy air want nothing but the very best solution. Exceptional filter performance, energy efficiency, ease of use and impeccable quality make Blueair the only real choice in air purification systems.

[> our products](#) 10 Year Warranty

New Products

FIND A DEALER

WARRANTY REGISTRATION

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*E*



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### Record 1 out of 1

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**TrueAir**

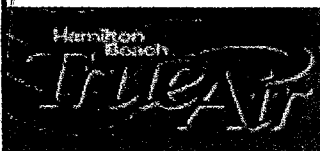
<b>Word Mark</b>	<b>TRUEAIR</b>
<b>Goods and Services</b>	IC 011, US 013 021 023 031 034, G & S: atmosphere treatment machines in the nature of air purifying units for industrial, commercial and domestic use, and replacement parts therefor
<b>Mark Drawing Code</b>	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
<b>Serial Number</b>	76085778
<b>Filing Date</b>	July 10, 2000
<b>Filed ITU</b>	FILED AS ITU
<b>Published for Opposition</b>	July 30, 2002
<b>Owner</b>	(APPLICANT) Hamilton Beach/Proctor-Silex, Inc. CORPORATION DELAWARE 4421 Waterfront Drive Glen Allen VIRGINIA 23060
<b>Attorney of Record</b>	JOSEPH J. VILLAPOL
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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TrueAir



## UV Air Purifiers

with 99.97% *filter\**

### Products

Air Purifiers

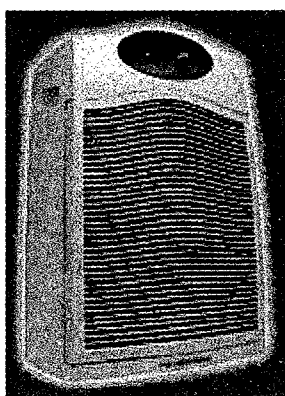
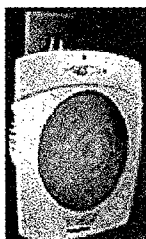
Air Purifier Filters

Humidifiers

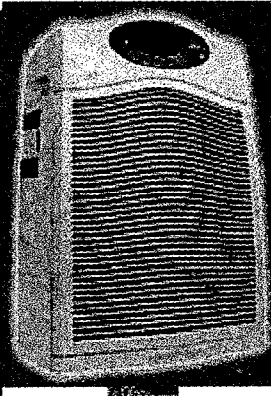
Humidifier Filters

Odor Eliminators

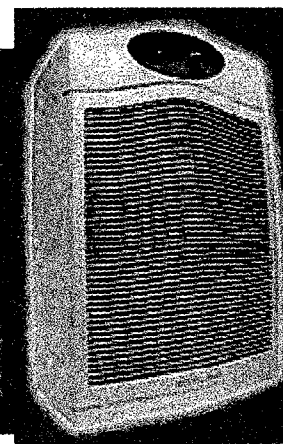
Odor Eliminator  
Filters



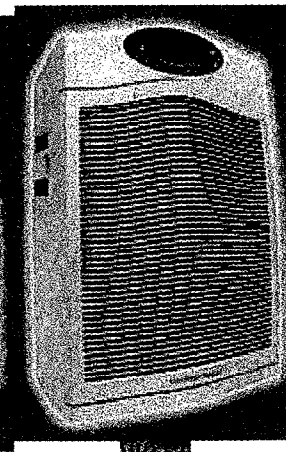
**04160**  
For 13' x 15' Rooms  
200 Sq. Ft.



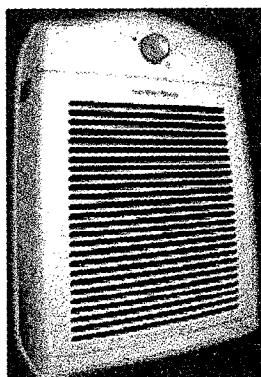
**04161** Digital  
For 13' x 15' Rooms  
200 Sq. Ft.



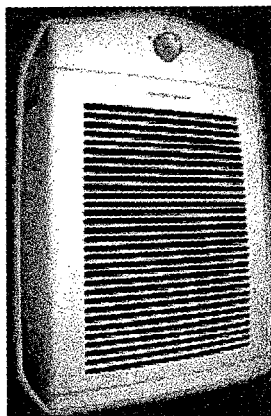
**04162**  
For 18' x 18' Rooms  
350 Sq. Ft.



**04163** Digital  
For 18' x 19' Rooms  
350 Sq. Ft.



**04150**  
For 10' x 18' Rooms  
180 Sq. Ft.



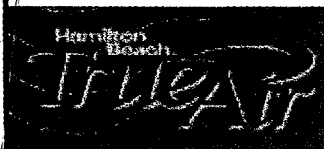
**04152**  
For 12' x 25' Rooms  
300 Sq. Ft.

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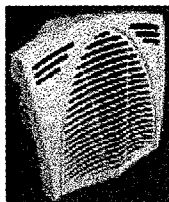
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or by calling 1-800-851-6900. Send web-related feedback to [webmaster@hamiltonbeach.com](mailto:webmaster@hamiltonbeach.com).

\*99.97% effective at removing particles as small as 0.3 microns that enter the filter

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Filters](#)

## Odor Eliminators

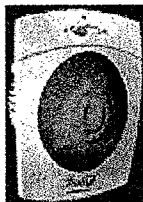


**TrueAir™  
Odor Eliminator  
with Continuous  
Cleaning Action**

04261 - All Purpose

04268 - Diaper Odors

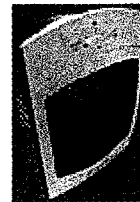
04269 - Pet Odors



**TrueAir™  
Odor Eliminator**

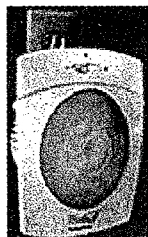
04251 - All Purpose

04255 - All Purpose  
(plus 3 bonus filters)



**TrueAir™  
Odor Eliminator  
with QuickClean™ Setting**

04271 - All Purpose



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or by calling 1-800-851-8900. Send web-related feedback to [webmaster@hamiltonbeach.com](mailto:webmaster@hamiltonbeach.com).

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## ▶ WHOIS Search Results

The data contained in Dotster, Inc.'s WHOIS database, while believed by the company to be reliable, is provided "as is", with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose, including, but not limited to, allowing or making possible dissemination or collection of this data in part or in its entirety for any purpose, such as the transmission of unsolicited advertising and solicitations, is expressly forbidden without the prior written permission of Dotster, Inc. By submitting an inquiry, you agree to these terms of usage and limitations of warranty. Please limit your queries to 10 per minute and one connection.

### Registrant:

Hamilton Beach Proctor Silex, Inc.  
4421 Waterfront Drive  
Glen Allen, VA 23060  
US

Registrar: Dotster (<http://www.dotster.com>)

Domain Name: TRUEAIR.COM

Created on: 26-JAN-01

Expires on: 26-JAN-04

Last Updated on: 30-AUG-01

### Administrative Contact:

Admin, NS nsadmin@hamiltonbeach.com  
Hamilton Beach Proctor Silex, Inc.  
4421 Waterfront Drive  
Glen Allen, VA 23060  
US  
(804) 527-7235  
(804) 527-7142

### Technical Contact:

Admin, NS nsadmin@hamiltonbeach.com  
Hamilton Beach Proctor Silex, Inc.  
4421 Waterfront Drive  
Glen Allen, VA 23060  
US  
(804) 527-7235  
(804) 527-7142

### Domain servers in listed order:

NS1.HAMILTONBEACH.COM  
NS1.SAVVIS.NET

Register a domain name at [www.dotster.com](http://www.dotster.com)

End of Whois Information

The previous information has been obtained either directly from the registrant or a registrar of the domain name other than VeriSign. VeriSign, therefore, does not guarantee its accuracy or completeness.

## Search Our WHOIS Records

e.g. netsol.com

Search WHOIS by:

Domain name

NIC handle

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### FAQs

☐ [What is a Handle? What is a Handle record?](#)

☐ [What is a Host? What is a host record?](#)

☐ [The domain name I want has expired according to the WHOIS record. Why can't I register that name?](#)



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("true" and blue){mn} and (live){ld}

Current Search: S7: ("true" and blue){mn} and (live){ld} docs: 54 occ: 162

Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	78046544	TRUE BLUE REWARDS	TARR	LIVE
2	78085585	TRUE BLUE	TARR	LIVE
3	78042728	TRUE BLUE REWARDS	TARR	LIVE
4	78113248	TRUE BLUE	TARR	LIVE
5	78105662	TRUE BLUE	TARR	LIVE
6	76258292	TRUE NEW YORKERS WEAR ORANGE AND BLUE	TARR	LIVE
7	76172320	TRUE BLUE MONEYMANAGER	TARR	LIVE
8	76172318	TRUE BLUE E-Z CHECK	TARR	LIVE
9	76172317	TRUE BLUE PAYMENT ADVANTAGE	TARR	LIVE
10	76368823	GR GORMAN-RUPP PUMPS WE ORIGINATE OTHERS IMITATE TRUE BLUE	TARR	LIVE
11	76325223	TRUE BLUE DENIM	TARR	LIVE
12	76264415	TRUE NEW YORKERS WEAR ORANGE AND BLUE	TARR	LIVE
13	76412476	TRUE BLUE	TARR	LIVE
14	76181724	TRUE BLUE	TARR	LIVE
15	76149291	TRUE-BLUE	TARR	LIVE
16	76034829	RANDSTAD TRUE BLUE	TARR	LIVE
17	76386658	TRUE BLUE	TARR	LIVE
18	76092259	2555179 TRUE BLUE RELIABILITY	TARR	LIVE
19	76203704	THE TRUE BLUE PROBE FOR ARGON PLASMA COAGULATION	TARR	LIVE
20	76304787	2550127 TRUE BLUE	TARR	LIVE
21	76151409	MAUNA LOA TRUE BLUE REWARDS	TARR	LIVE
22	76172319	TRUE BLUE	TARR	LIVE
23	75123292	2206049 TRUE BLUE	TARR	LIVE
24	75480762	2236840 SEAFOOD...THE RIGHT WAY TRUE BLUE	TARR	LIVE
25	75919963	2533504 B MAUNA LOA TRUE BLUE REWARDS	TARR	LIVE
26	75623918	2526451 TRUE BLUE INTERACTIVE	TARR	LIVE
27	75941900	2446242 TRUE BLUE ONLINE	TARR	LIVE
28	75931721	2428452 TRUE BLUE	TARR	LIVE
29	75668215	2432801 "TRUE BLUE" SAFETY SUCTION SYSTEM	TARR	LIVE
30	75564731	2376686 TRUE BLUE	TARR	LIVE
31	75458720	2375808 TRUE BLUE ONLINE	TARR	LIVE
32	75311825	2146548 DREAMS COME TRUE WITH BLUE HAWAIIAN	TARR	LIVE
33	75257739	2227162 TRUE BLUE PRIDE	TARR	LIVE
34	75255508	2132738 TRUE BLUE	TARR	LIVE
35	75222240	2167105 TRUE BLUE	TARR	LIVE
36	75168099	2136805 TRUE BLUE	TARR	LIVE
37	75146658	2215030 TRUE BLUE POTATOES	TARR	LIVE
38	75086773	2045908 TRUE BLUE	TARR	LIVE
39	75073981	2062925 TRUE BLUE	TARR	LIVE
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I

41	74802612	1951989	TRUE BLUE	TARR	LIVE
42	74239384	1783896	TRUE BLUE MUSIC	TARR	LIVE
43	74574663	2081910	TRUE BLUE	TARR	LIVE
44	74375388	1898476	TRUE BLUE	TARR	LIVE
45	74264503	1764865	TRUE BLUE LIMITED WARRANTY	TARR	LIVE
46	74258681	1801682	TRUE BLUE	TARR	LIVE
47	74189312	1700648	TRUE BLUE	TARR	LIVE
48	74016631	1733422	TRUE BLUE CREME	TARR	LIVE
49	73571742	1446756	TRUE BLUE	TARR	LIVE
50	73711277	1506847	TRUE BLUE	TARR	LIVE
51	73682004	1522536	TRUE BLUE	TARR	LIVE
52	73559363	1413214	TRUE BLUE	TARR	LIVE
53	73465714	1344630	TRUE BLUE	TARR	LIVE
54	73085429	1053178	TRUE BLUE	TARR	LIVE

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## Trademark Electronic Search System (TESS)

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### Check Status

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### Typed Drawing

Word Mark TRUE BLUE  
Goods and Services IC 011. US 013 021 023 031 034. G & S: AIR PURIFYING UNITS FOR USE WITH AIR RESPIRATORS. FIRST USE: 19940000.  
Mark Drawing Code (1) TYPED DRAWING  
Serial Number 76304787  
Filing Date August 24, 2001  
Published for Opposition December 25, 2001  
Registration Number 2550127  
Registration Date March 19, 2002  
Owner (REGISTRANT) MST, Inc. CORPORATION OHIO P.O. Box 87 Hicksville OHIO 43526  
Attorney of Record Todd T. Taylor  
Type of Mark TRADEMARK  
Register PRINCIPAL  
Live/Dead Indicator LIVE

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### Typed Drawing

**Word Mark** "TRUE BLUE" SAFETY SUCTION SYSTEM  
**Goods and Services** IC 011. US 013 021 023 031 034. G & S: water flow intake shut down manifold sold as a component part of jetted spas, hot tubs, and bathtubs. FIRST USE: 19970101. FIRST USE IN COMMERCE: 19970101  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 75668215  
**Filing Date** March 26, 1999  
**Published for Opposition** December 12, 2000  
**Registration Number** 2432801  
**Registration Date** March 6, 2001  
**Owner** (REGISTRANT) CALIFORNIA ACRYLIC INDUSTRIES, INC. CORPORATION CALIFORNIA 1462 East 9th Street Pomona CALIFORNIA 91766  
**Attorney of Record** GEORGE R. PHILLIPS JR.  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SAFETY SUCTION SYSTEM" APART FROM THE MARK AS SHOWN  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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### Check Status

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### Typed Drawing

**Word Mark** TRUE BLUE RELIABILITY  
**Goods and Services** IC 007, US 013 019 021 023 031 034 035. G & S: full line of air compressors and replacement parts therefor. FIRST USE: 19980800.  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 76092259  
**Filing Date** July 20, 2000  
**Filed ITU** FILED AS ITU  
**Published for Opposition** June 26, 2001  
**Registration Number** 2555179  
**Registration Date** April 2, 2002  
**Owner** (REGISTRANT) Coltec Industries Inc. CORPORATION PENNSYLVANIA 4 Coliseum Centre 2730 West Tyvola Road Charlotte NORTH CAROLINA 28217  
**Attorney of Record** Jamie J. Fitzgerald  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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